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10/632,968	08/04/2003	Yoshiyuki Sasaki	R2184.0258/P258	4462
24998 7590 01/08/2007 DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403			EXAMINER PATEL, GAUTAM	
			ART UNIT	PAPER NUMBER
			2627	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/08/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/632,968

Applicant(s)

SASAKI, YOSHIYUKI

Examiner

Gautam R. Patel

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 9-11, 18-21, 28 and 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-17 and 22-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **Response to Arguments/Reconsideration**

1. This is in response to reconsideration filed on 11/14/06.
2. claims 1-8, 12-17 and 22-27 remain for examination. Claims 1-29 are pending.

### **Election/Restriction**

3. The Applicants are urged to cancel non-elected claims 9-11, 18-21, and 28-29 to further the prosecution.

### **Drawings/Objection**

4. The drawings are objected for following reasons:

The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature/step of the invention specified in the claims.

Therefore, the steps “a first step of outputting, a third step of creating provisional information” must be shown or the features cancelled from the claims. Similarly “a termination information output part, a response part creating provisional information etc.” must also be shown.

#### **No new matter should be entered.**

Applicant is required to submit a proposed drawing correction in response to this Office Action. Any proposal by the applicant for amendment of the drawings to cure defects must consist of following:

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment, and may be *accompanied by a marked-up copy of one or more of the figures being amended, with annotations*. Any replacement drawing sheet *must be identified in the top margin as “Replacement Sheet”* and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. *Any marked-up (annotated) copy showing changes must be labeled “Annotated Marked-up Drawings” and accompany the replacement sheet in the amendment (e.g., as an appendix).*

a proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. Correction may not be held in abeyance.

Correction are required.

### **Claim Rejections - 35 U.S.C. § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 12-17 and 22-27 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hashimoto et al., J.P.O. Publication . 2001-043663 (hereafter Hashimoto).

As to claim 1, Hashimoto discloses the invention as claimed [see Figs. 1-10, especially 1 and 6-10] including a first step of outputting and a second step of starting the initialization, comprising the steps of:

a first step of outputting, in response to an initialization request for initializing the information recording medium, termination information indicative of termination of the initialization before said initialization starts; and

a second step of starting the initialization at a predetermined timing after the output of the termination information [paragraphs 31-43, & 68-78].

6. The aforementioned claim 2, recites the following steps, inter alia, disclosed in Hashimoto:

the initialization comprises a formatting process and the predetermined timing is a receipt time of a format interrupt request of the information recording medium [paragraphs 31-43, & 68-78].

7. The aforementioned claim 3, recites the following steps, inter alia, disclosed in Hashimoto:

the predetermined timing is a receipt time of an ejection request of the information recording medium [paragraphs 31-43, & 68-78].

8. The aforementioned claim 4, recites the following steps, inter alia, disclosed in Hashimoto:

the predetermined timing is a time at which access to the information recording medium is not requested [paragraphs 31-43, & 68-78].

9. The aforementioned claim 5, recites the following steps, inter alia, disclosed in Hashimoto:

a third step of creating, in response to an initialization information request for requesting information regarding the initialization before completion of the initialization, provisional information corresponding to the information regarding the initialization and providing the provisional information in response to the initialization information request [paragraphs 31-43, & 68-78].

10. The aforementioned claim 6, recites the following steps, inter alia, disclosed in Hashimoto:

a fourth step of interrupting the initialization in response to a write request for recording user data in the information recording medium; and a fifth step of restarting the initialization after the user data have been recorded in the information recording medium [paragraphs 33-43, & 68-78].

11. The aforementioned claim 7, recites the following steps, inter alia, disclosed in Hashimoto:

the second step records predetermined management information in a lead-in area of the information recording medium [paragraphs 31-43, & 68-78].

12. The aforementioned claim 12, recites the following elements, inter alia, disclosed in Hashimoto:

a termination information output part, in response to an initialization request for initializing the information recording medium, outputting termination information indicative of termination of the initialization before said initialization starts; and an initialization part starting

the initialization by recording predetermined initialization information in a predetermined area in the information recording medium at a predetermined timing after the output of the termination information [paragraphs 33-43, & 68-78].

13. The aforementioned claim 13, recites the following steps, inter alia, disclosed in Hashimoto:

the initialization request is issued by an external apparatus [paragraphs 31-43, & 68-78].

14. The aforementioned claim 14, recites the following steps, inter alia, disclosed in Hashimoto:

a response part, in response to the initialization information request before completion of the initialization, creating provisional information corresponding to the initialization information and providing the provisional information in response to the initialization information request [paragraphs 31-43, & 68-78].

15. The aforementioned claim 15, recites the following steps, inter alia, disclosed in Hashimoto:

the initialization information request is issued by an external apparatus [paragraphs 31-43, & 68-78].

16. The aforementioned claim 16, recites the following steps, inter alia, disclosed in Hashimoto:

an initialization interruption part interrupting the initialization in response to a write request for recording user data in the information recording medium; and

an initialization restart part restarting the initialization after the user data have been recorded in the information recording medium [paragraphs 31-43, & 68-78].

17. The aforementioned claim 17, recites the following steps, inter alia, disclosed in Hashimoto:

the write request is issued by an external apparatus [paragraphs 33-43, & 68-78].

18. As to claims 22-27, they are method claims corresponding to claims 1-6 respectively and they are therefore rejected for the similar reasons set forth in the rejection of claims 1-6 respectively, above.

NOTE: Storing program on disc and executing steps is well known and does not constitute patentable differentiation as such. Also limitation in the preamble does not breath life into the body of the claim.

### **Claim Rejections - 35 U.S.C. § 103**

19. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hashimoto as applied to claims 1-7 above.

Hashimoto teaches all of the above elements and that his steps are applicable to CD disc. Hashimoto does not specifically teach that his steps of interrupting formatting and restarting is equally applicable to a DVD+RW disc. "Official Notice" is taken that both the concept and the advantages of providing interrupt logic are well known and expected in the art. It would have been obvious to included these steps to a DVD+RW disc as this disc are known to provide larger storage capacity and thereby saving time and money on storing programs such as video data. These concepts are well known in the art and do not constitute a patentably distinct limitation, per se [M.P.E.P. 2144.03].

20. Applicant's arguments filed on 11/14/06 have been fully considered but they are not deemed to be persuasive for the following reasons.

In the REMARKS, the Applicant argues as follows:

A) That: “The first through fifth steps of claims 1, 5 and 6 are illustrated in Figs. 4 and 7, through S401, S407, S483, S417, and S423, respectively” [page 1, paragraph 2; REMARKS].

Careful examination of figs. 4 and 7 shows that these steps are not shown as CLAIMED. The first step claims “outputting termination information indicative of termination in response to an initialization request. While step S401 says “Inform host of format completion”. Step two may be compared to S407, however actual claim refers to “initialization at a predetermined timing”. As to step three for creating a “provisional information creation” is not shown in step S483. This step simply says create FDCB information”. As steps four and five they may be considered as shown in S417 and S423. However it is not clear at all how these steps shown in different figures in different places suddenly correlates with each other or provide a logical sequence.

B) That; “Claim 1 recites the step of “outputting .. termination information indicative of termination of ..initialization before said initialization starts [original emphasis]” [page 2, paragraph 2; REMARKS].

FIRST: Stopping initialization before it starts is well known. I think at for long time, for simple reason that If a wrong disc is inserted in the system for which that system is not designed, the system simply spits that disc out before any initialization starts and discloses that this is a non-compatible disc.

SECOND: Hashimoto discloses this aspect very clearly see paragraph 30; as “and discharges an optical disc, accuracy obtains a postscript location and it can carry out overwrite elimination certainly before a format further again”

21. **THIS ACTION IS MADE FINAL.** See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE MONTH** shortened statutory period, then the shortened statutory period



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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

#### **Contact information**

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is 571-272-7625. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

The appropriate fax number for the organization (Group 2600) where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Dwayne Bost, who can be reached on (571) 272-7023.

Any inquiry of a general nature or relating to the status of this application should be directed to the Electronic Business Center whose telephone number is 866-217-9197 or the USPTO contact Center telephone number is (800) PTO-9199.



**GAUTAM R. PATEL  
PRIMARY PATENT EXAMINER**

Gautam R. Patel  
Primary Examiner  
Group Art Unit 2627

December 30, 2006